

21 C.J.S. Courts § 49

Corpus Juris Secundum | May 2023 Update

Courts

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II. Jurisdiction of Courts

D. Jurisdiction of Person

3. Tests or Elements Determining Exercise of Personal Jurisdiction

§ 49. Presence, residence, or domicile in forum as basis of personal jurisdiction

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Courts](#)  12.5, 13, 13.7

A defendant's presence, residence, or domicile in the forum state will generally provide a basis for personal jurisdiction.

For due process purposes, the paradigm forum for the exercise of general personal jurisdiction over an individual is the individual's domicile, and, for a corporation, it is an equivalent place, one in which the corporation is fairly regarded as at home.¹ Thus, a defendant's presence in the state usually provides a basis for personal jurisdiction² provided the defendant is personally served with process in the state.³ Presence for this purpose generally includes the defendant's residence,⁴ domicile,⁵ or citizenship in the state,⁶ which are sufficient even when the defendant is absent from the state.⁷ Without consent,⁸ or one of these bases for personal jurisdiction, due process requires that the defendant have certain minimum contacts with the forum state and that the maintenance of the action not offend traditional notions of fair play and substantial justice.⁹

For the purposes of personal jurisdiction, domicile is not necessarily synonymous with residence, and one can reside in one place but be domiciled in another.¹⁰ Domicile is established by physical presence in a place in connection with a certain state of mind concerning one's intent to remain there, such that a person can have multiple residences but can have only one domicile.¹¹

CUMULATIVE SUPPLEMENT

Cases:

The paradigm forums in which a corporate defendant is at home are the corporation's place of incorporation and its principal place of business, but the exercise of general jurisdiction is not limited to these forums; in an exceptional case, a corporate defendant's operations in another forum may be so substantial and of such a nature as to render the corporation at home in that State. [BNSF Ry. Co. v. Tyrrell](#), 137 S. Ct. 1549 (2017).

Chinese citizen did not intend to make New York his permanent home, and thus was not subject to personal jurisdiction on the basis of domicile at time fraud action was commenced, absent evidence of his intent to make New York cooperative apartment owned by him his fixed and permanent home, although his wife and daughter resided in apartment, and although employment-based immigrant visa was filed on his behalf; chinese citizen resided in Shanghai, China, had not visited New York in several years, and action commenced four months after his departure from United States. [McKinney's CPLR 301, 3211. Chen v. Guo Liang Lu](#), 144 A.D.3d 735, 41 N.Y.S.3d 517 (2d Dep't 2016).

In determining whether litigation in the forum state offends traditional notions of fair play and substantial justice, courts look to the so-called Gestalt factors to determine whether the exercise of personal jurisdiction is reasonable; these factors include the burden on the defendant, the forum state's interest in adjudicating the dispute, the plaintiff's interest in obtaining the most effective resolution of the controversy, and the shared interest of the several states in furthering fundamental substantive social policies. [St. Onge v. USAA Federal Savings Bank](#), 219 A.3d 1278 (R.I. 2019).

[END OF SUPPLEMENT]

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Footnotes

- 1 U.S.—Goodyear Dunlop Tires Operations, S.A. v. Brown, 564 U.S. 915, 131 S. Ct. 2846, 180 L. Ed. 2d 796 (2011).

Iowa—Sioux Pharm, Inc. v. Summit Nutritionals Int'l, Inc., 859 N.W.2d 182 (Iowa 2015).
- 2 U.S.—Burnham v. Superior Court of California, County of Marin, 495 U.S. 604, 110 S. Ct. 2105, 109 L. Ed. 2d 631 (1990) (per J. Scalia with three Justices concurring and five Justices concurring in the judgment).

Ariz.—Desarrollo Inmobiliario y Negocios Industriales De Alta Tecnologia De Hermosillo, S.A. De C.V. v. Kader Holdings Co. Ltd., 229 Ariz. 367, 276 P.3d 1 (Ct. App. Div. 2 2012).

Cal.—Global Packaging, Inc. v. Superior Court, 196 Cal. App. 4th 1623, 127 Cal. Rptr. 3d 813 (4th Dist. 2011).

N.J.—Patel v. Karnavati America, LLC, 437 N.J. Super. 415, 99 A.3d 836 (App. Div. 2014).

N.Y.—Hotel 71 Mezz Lender LLC v. Falor, 14 N.Y.3d 303, 900 N.Y.S.2d 698, 926 N.E.2d 1202 (2010).
- 3 U.S.—Jonas v. Estate of Leven, 116 F. Supp. 3d 314 (S.D. N.Y. 2015) (applying New York law).

As to acquiring jurisdiction over the defendant by service of process, generally, see § 69.
- 4 Fla.—Snyder v. McLeod, 971 So. 2d 166 (Fla. 5th DCA 2007).

N.Y.—Deer Consumer Products, Inc. v. Little, 35 Misc. 3d 374, 938 N.Y.S.2d 767 (Sup 2012).

N.C.—Federated Financial Corp. of America v. Jenkins, 215 N.C. App. 330, 719 S.E.2d 48 (2011).

Ohio—Prouse, Dash & Crouch, L.L.P. v. DiMarco, 116 Ohio St. 3d 167, 2007-Ohio-5753, 876 N.E.2d 1226 (2007).

Tex.—Restrepo v. Alliance Riggers & Constructors, Ltd., 441 S.W.3d 453 (Tex. App. El Paso 2014).

A.L.R. Library
Construction of phrase "usual place of abode," or similar terms referring to abode, residence, or domicil, as used in statutes relating to service of process, 32 A.L.R.3d 112.
- 5 U.S.—Goodyear Dunlop Tires Operations, S.A. v. Brown, 564 U.S. 915, 131 S. Ct. 2846, 180 L. Ed. 2d 796 (2011); Loyalty Conversion Systems Corporation v. American Airlines, Inc., 66 F. Supp. 3d 813 (E.D. Tex. 2014).

Cal.—F. Hoffman-La Roche, Inc. v. Superior Court, 130 Cal. App. 4th 782, 30 Cal. Rptr. 3d 407 (6th Dist. 2005).

Fla.—Snyder v. McLeod, 971 So. 2d 166 (Fla. 5th DCA 2007).

N.Y.—Deer Consumer Products, Inc. v. Little, 35 Misc. 3d 374, 938 N.Y.S.2d 767 (Sup 2012).
- 6 U.S.—Mulato v. Wells Fargo Bank, N.A., 76 F. Supp. 3d 929 (N.D. Cal. 2014); Loyalty Conversion Systems Corporation v. American Airlines, Inc., 66 F. Supp. 3d 813 (E.D. Tex. 2014).
- 7 U.S.—Milliken v. Meyer, 311 U.S. 457, 61 S. Ct. 339, 85 L. Ed. 278, 132 A.L.R. 1357 (1940).

Me.—Margani v. Sanders, 453 A.2d 501 (Me. 1982).
- 8 U.S.—Mulato v. Wells Fargo Bank, N.A., 76 F. Supp. 3d 929 (N.D. Cal. 2014); Loyalty Conversion Systems Corporation v. American Airlines, Inc., 66 F. Supp. 3d 813 (E.D. Tex. 2014).

Ariz.—Desarrollo Inmobiliario y Negocios Industriales De Alta Tecnologia De Hermosillo, S.A. De C.V. v. Kader Holdings Co. Ltd., 229 Ariz. 367, 276 P.3d 1 (Ct. App. Div. 2 2012).

Cal.—Global Packaging, Inc. v. Superior Court, 196 Cal. App. 4th 1623, 127 Cal. Rptr. 3d 813 (4th Dist. 2011).

N.C.—Federated Financial Corp. of America v. Jenkins, 215 N.C. App. 330, 719 S.E.2d 48 (2011).

9 § 46.

10 N.Y.—Deer Consumer Products, Inc. v. Little, 35 Misc. 3d 374, 938 N.Y.S.2d 767 (Sup 2012).

11 N.Y.—Deer Consumer Products, Inc. v. Little, 35 Misc. 3d 374, 938 N.Y.S.2d 767 (Sup 2012).

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